

1 aware -- you may not be aware -- but are you aware that
2 there are several software packages marketed for use by
3 small SMR's that --

4 MR. KNOWLES-KELLETT: Your Honor --

5 CHIEF JUDGE CHACHKIN: Wait a minute. Let him
6 finish the question.

7 MR. KNOWLES-KELLETT: I've got another objection,
8 I'm sorry. He already asked it once. This goes to the
9 paragraphs. I don't think that it comes in. He's not
10 testifying as to the historical relevance --

11 MR. KELLER: Well, maybe we need to expand the
12 objection.

13 MR. KNOWLES-KELLETT: You can't have it both
14 ways --

15 CHIEF JUDGE CHACHKIN: Wait a minute. It's still
16 going forward as an offer of proof, and so to that extent, I
17 will permit him to ask questions and I could also pull his
18 response to the offer of proof.

19 MR. KELLER: I'm very comfortable with that, but
20 also, specifically, I was cross-examining on Paragraph 6,
21 which, to my knowledge --

22 MR. KNOWLES-KELLETT: Yes, but the issue went to
23 historical loading records.

24 MR. KELLER: I understand, I understand.

25 BY MR. KELLER:

1 Q My question is, are you aware that there are
2 software packages marketed for use by small SMR's for
3 billing, which do, in fact, overwrite records when changes
4 are made?

5 A Now or back then?

6 Q In the early 1990's?

7 A I don't believe I was aware of any at that time.

8 Q I'd now like to refer you to Paragraph 9 of your
9 testimony. To your knowledge, have you ever made
10 applications for SMR facilities which, if granted, would
11 have placed you in competition with Mr. Kay?

12 A When the FCC held a lottery for all the major
13 markets on a new frequency release, I applied in every
14 market, and I assume he may have applied in every market,
15 too. I don't really know.

16 Q Well, I guess my specific question is, isn't it
17 true that you had at least two applications for SMR systems
18 on the Los Angeles wait-list for several periods in the
19 1990's?

20 A Absolutely.

21 Q I'd now like to refer you generally to Paragraph
22 10. In describing a conventional system, actually in
23 Paragraph 10, I assume you to be describing essentially a
24 basic repeater operation and I want to explore into this a
25 little bit.

1 You explain here that a repeater operation, by
2 transmitting or using two different frequencies, that is,
3 that the repeater transmits on one frequency and that's the
4 frequency on which the mobile is received, correct?

5 A Correct.

6 Q And, that the mobiles transmit on different
7 frequency and that's the frequency on which the repeater
8 receives, correct?

9 A That is a typical repeater configuration.

10 Q Now, is it not also true, then, that part of the
11 repeater's configuration is that when the mobile transmits,
12 the repeater then rebroadcasts what it receives from the
13 repeater, from the mobile?

14 A Yes.

15 Q Okay, and therefore, as a general rule, the
16 purpose of that is so that all the other mobiles in the
17 service area can hear that transmission, correct?

18 A Wide coverage, wide area coverage.

19 Q Now, you give taxi cabs as a typical example of a
20 conventional repeater, that's the primary example you give,
21 correct?

22 A That was just one of the industries of many, many
23 that use them. It was just something everyone was familiar
24 with, so it could just have easily been any other industry.

25 Q My question, though, isn't it true that taxi cabs

1 actually do not follow the standard practice? Just my own
2 personal experience, having ridden in cabs in various cities
3 throughout the country, I always hear the dispatcher, I
4 never hear the other taxi cabs, what they're saying. It
5 would seem to me if it's being repeated, why wouldn't I hear
6 it?

7 A Taxi cabs typically disable the audio so that the
8 other cabs cannot hear each other's calls.

9 Q How do they do that?

10 A I believe they do it with a function done at the
11 repeater that keeps the mobile audio from being repeated.

12 Q Would one way that they accomplish this be to
13 assign different tones to the dispatcher versus the mobiles?

14 A Different private-line tones?

15 Q Yes?

16 A I don't think so. No, what's normally done, it's
17 in the repeater and it's actually a knockdown function, they
18 call it, that knocks down the audio, keeps it from being
19 repeated. I don't know of it being done typically with
20 private lines ever.

21 Q But, in a general repeater configuration, all the
22 mobiles would then, a group of that user, that is, with that
23 tone, would hear the transmissions of the other mobiles,
24 correct?

25 A Yes.

1 Q In fact, that's the purpose of the system
2 operating in that way, correct?

3 A The purpose is to extend the range of the mobile,
4 and if there are multiple users on it and you don't want
5 anyone to hear it, then you have to have a method by which
6 you separate it.

7 Q Now, I'm not going to go into a lot of detail on
8 this. I've read your testimony regarding the distinctions
9 between the trunk and the quasi-trunk systems. But, I do
10 want to refer you to Paragraph 17. And, you know, in
11 Paragraph 17, you refer to what we referred to previously in
12 this proceeding as the Spillman trunk systems or quasi-trunk
13 systems, but then you had, the last sentence of Paragraph
14 17, I need some clarification on this.

15 You say, "This type of system is frequently
16 marketed as a trunk system, but is actually a quasi-trunking
17 system in that no dedicated trunk channel is used." And,
18 I'm not taking issue with your statement that this is a
19 quasi-trunk as opposed to a trunk system, but I need
20 clarification. Are you saying that the reason it is not a
21 trunk system is because no dedicated trunk channel is used?

22 A No.

23 Q Well, that's what the statement says, though,
24 isn't it? You say it is not actually, it is actually a
25 quasi-trunk system in that no dedicated trunk channel is

1 used. Can you clarify that for me?

2 A This goes a little bit to the history, but there
3 were many different formats trying to accomplish the same
4 thing. In this particular case, the mobile goes to its own
5 frequency first and if that frequency is busy, then it
6 moves, scans, looking for an open frequency, okay.

7 The logic is more contained in the mobile and less
8 contained in the central location. The word quasi-trunk is
9 used a lot in the industry, but if the traffic is moved from
10 one frequency to another, it's trunk. How it gets done,
11 whether it be with a dedicated control channel, with logic
12 in the control head, with whatever else formats are out
13 there, the word quasi has been used by the industry and I
14 don't know where that came from, but it was just commonly
15 referred to as a quasi-trunk system. But, it is, in fact,
16 trunks.

17 Q I guess I'm confused. When I read your testimony,
18 I thought we were referring to, first of all, trunk systems
19 in general, and you described that -- obviously, I
20 understand that there are many formats, but you stated
21 there's the Motorola format and then you just stated there's
22 the LTR format.

23 Then you go on to talk about Paragraph 17, this
24 Jack Spillman, Ros Allen letter. Now, you seem to be saying
25 that, I guess why I'm confused, do you consider LTR, in

1 general, to be quasi-trunk as opposed to trunk, as you use
2 the term here?

3 A Trunk.

4 Q Then, what is the distinction between standard LTR
5 system and the Spillman trunk system, which leads you to
6 call one quasi-trunk as opposed to trunk?

7 A Okay, I don't want to confuse the issue and the
8 word "quasi" probably shouldn't have been used, but it's
9 something that the industry knows I'm talking about but
10 someone in this forum may not. So, let me go just one more
11 time.

12 Trunk is trunk, as long as it accomplishes the
13 sharing of frequencies and moving from frequency to
14 frequency. It's a trunk system.

15 Q Got you, okay.

16 A And, LTR is a trunk system. It's a format used to
17 accomplish trunking. Motorola's is the same mark. General
18 Electric -- I mean, we can go down the whole list of people,
19 and they all accomplish trunking.

20 Q Let me ask you this, then. Then, I'd ask you some
21 questions and I'm assuming if you know -- if you don't know,
22 that's a fine answer -- but, is it not true that the reason
23 why the FCC has rules regarding when you may or may not
24 trunk a particular channel -- I'm talking now about
25 conventional channels, when a conventional channel might be

1 trunked, it's true, is it not, the reason the FCC restricts
2 the circumstances under which one can include a conventional
3 channel in a trunk group is because of concerns for
4 interference and the need to monitor shared channels before
5 transmitting, correct?

6 A I don't know what the reason was the FCC wrote the
7 rules why they did. I mean, I wasn't part of the decision
8 making process. All I can speak to is what you were able to
9 do or not do on a specific channel.

10 Q All right, well, then stop right there. In
11 Paragraph 17, you discuss the exchange of letters between
12 Jack Spillman and Ros Allen of the FCC, correct?

13 A I discussed the Ros Allen letter, which was put
14 out to the industry.

15 Q It's true, is it not, that the Ros Allen letter
16 was a declaratory or advisory ruling, if you will, stating
17 the circumstances under which it would be appropriate to
18 trunk on a conventional channel, among other things?

19 A Yes.

20 Q What is the reason --

21 A Yes, I'm sorry.

22 Q Yes, you need to say it out loud, so the court
23 reporter can get it.

24 A Sure.

25 Q What was the rationale for her ruling, if you

1 know?

2 MR. SCHAUBLE: Objection. The witness can't
3 identify a rationale for an FCC ruling.

4 MR. KELLER: Well, the witness --

5 MR. SCHAUBLE: Object to the form of the question.

6 MR. KELLER: The witness has testified regarding
7 the letter here. I'm just asking --

8 CHIEF JUDGE CHACHKIN: I'll overrule the
9 objection.

10 BY MR. KELLER:

11 Q Do you recall what the rationale for her ruling
12 was?

13 A I recall that the industry was wanting further
14 clarification as to what was trunking and what wasn't
15 trunking, what applied and didn't apply, and I believe there
16 had been many, many requests of this type for further
17 clarification.

18 Q What was the essence of her ruling, if you
19 remember?

20 A I think that the industry had practices in place
21 that allowed for a broader interpretation of the methods by
22 which you can accomplish trunking, and there was a narrow, a
23 narrow standard initially, and people were asking, is this
24 trunking or is this not trunking? And, that's what I
25 believe led up to this.

1 There was a lot of question as to what was
2 trunking and what wasn't.

3 Q Can I ask you to take just a moment and reread
4 your Paragraph 17?

5 A Okay. Okay.

6 Q What I want to know is, would it be a fair
7 characterization, if you remember and if you know, to say
8 that the essence of her ruling was that the method being
9 proposed by Mr. Spillman was acceptable because it
10 incorporated a method for assuring that the mobile would not
11 seize a busy channel being used by another shared user?

12 A I would have to go back and read it, in order to -
13 -

14 Q So, you don't remember for sure?

15 A Specifics, I would have to go back and read it.
16 It has been awhile.

17 Q That's fair. I'm now going to the subject of the
18 Judge's ruling a moment ago, this --

19 CHIEF JUDGE CHACHKIN: I'm interested, you
20 referred to the letter, and you referred to specifically
21 what the letter said to Ms. Allen, so you must have read the
22 letter in order to --

23 THE WITNESS: I read it, but not recently.

24 CHIEF JUDGE CHACHKIN: You mean, when you wrote
25 this affidavit -- it's dated 12/10/98, you didn't at that

1 time review the Allen letter?

2 THE WITNESS: No, we went strictly by my
3 recollection of what had happened way back then.

4 CHIEF JUDGE CHACHKIN: I see. All right.

5 THE WITNESS: That was a benchmark, turning point
6 in history, as to how you could, what was acceptable. Very
7 clearly do I remember when that happened.

8 CHIEF JUDGE CHACHKIN: But, counsel has asked you
9 about something what the essence of the letter was, as to
10 what was acceptable practice and apparently, you don't
11 recall that. You did recall at least what you indicated
12 here in your Paragraph 17.

13 When was the last time you read this letter?

14 THE WITNESS: The letter's been discussed
15 regularly since it was put out and --

16 CHIEF JUDGE CHACHKIN: When did you personally
17 read the letter last?

18 THE WITNESS: Several years ago.

19 CHIEF JUDGE CHACHKIN: So, you were just relying
20 on what you recall the letter said?

21 THE WITNESS: The Ros Allen letter?

22 CHIEF JUDGE CHACHKIN: Yes.

23 THE WITNESS: Yes, that's exactly right.

24 BY MR. KELLER:

25 Q Let me ask you this. Have you ever read Mr.

1 Spillman's letter?

2 A No.

3 Q Now, consistent with the Judge's ruling a moment
4 ago, the amount of material that's going forward has been
5 approved, but I do want to ask, I think, one question
6 regarding that information. Please refer to Paragraph 20 of
7 your testimony, and down about the middle of the paragraph,
8 you make the statement, this would be one, two, three, four,
9 five, six lines up from the bottom of the paragraph.

10 "This implicitly required the keeping of
11 historical loading records." Now, I assume by using the
12 word implicitly, you meant that you're not aware of any
13 express requirement in that regard?

14 A I am not aware of anything that said you have to
15 keep historical records, yes.

16 MR. KELLER: Your Honor, may I approach the
17 witness?

18 CHIEF JUDGE CHACHKIN: Yes.

19 BY MR. KELLER:

20 Q I just want to show you the rules for Section
21 90.447 of the rules.

22 MR. KNOWLES-KELLETT: What year?

23 MR. KELLER: Well, I've got the 10/1/97 CFR, but I
24 don't think the rule has changed.

25 MR. KNOWLES-KELLETT: I just want to see it.

1 BY MR. KELLER:

2 Q I'd like to refer your attention to Section 90 --
3 you're going to have to refresh my recollection. What is
4 it?

5 MR. KNOWLES-KELLETT: Four four seven.

6 BY MR. KELLER:

7 Q Four four seven of the Commission's rules, and
8 would you read that, please, out loud?

9 A "Records required by this part shall be retained
10 by the licensee for at least one year."

11 Q Are you aware of any other FCC regulations that
12 require the continuance of records for more than a year?

13 A No.

14 Q Are you aware of any guidelines, forms, formats or
15 standards that the Wireless Bureau or the Federal
16 Communications Commission may have published regarding how
17 SMR should maintain their records?

18 A How? What form?

19 Q Yes?

20 MR. KELLER: One moment, Your Honor, please.

21 BY MR. KELLER:

22 Q Then, finally, Mr. Gerrard, now, your testimony
23 here, did you write this testimony or was it prepared for
24 your review?

25 A It was prepared as a result of discussions I had

1 and my testimony.

2 Q Do you know who prepared it?

3 A Do I know who prepared it specifically? No.

4 MR. KELLER: I have no further questions, Your
5 Honor.

6 CHIEF JUDGE CHACHKIN: Any redirect?

7 MR. SCHAUBLE: One moment, Your Honor. Just very
8 briefly, Your Honor.

9 CHIEF JUDGE CHACHKIN: Go ahead.

10 REDIRECT EXAMINATION

11 BY MR. SCHAUBLE:

12 Q Mr. Gerrard, do you have an understanding of where
13 the channel selection logic is contained in the Spillman-
14 type trunk system?

15 A Yes, to the best of my knowledge, it's contained
16 in the mobile.

17 MR. SCHAUBLE: No further questions, Your Honor.

18 CHIEF JUDGE CHACHKIN: All right, you're excused,
19 thank you.

20 (Witness excused.)

21 MR. KNOWLES-KELLETT: Five minute break, Your
22 Honor?

23 CHIEF JUDGE CHACHKIN: Well, before that, just to
24 be clear with my ruling, I have rejected Paragraphs 18
25 through 22. Now, is there anything else, Mr. Keller, that

1 you see in paragraphs which deal with loading? I think it's
2 all just related to knowledge and experience, is that
3 correct?

4 (The document referred to,
5 having been previously marked
6 for identification as WTB
7 Exhibit 346, Paragraphs 18
8 through 22, was rejected as
9 evidence.)

10 MR. KELLER: Either that or it's mixed, Your
11 Honor. I was also tempted to agree with Mr. Kellett's
12 objection to certain of these earlier transactions sent
13 down, but I'll let it go since it's such a mixed bag of
14 experience, qualifications and substance.

15 CHIEF JUDGE CHACHKIN: All right, so I will
16 receive all but those. I'll receive the first 17
17 paragraphs. The rest will be rejected.

18 (The document referred to,
19 having been previously marked
20 for identification as WTB
21 Exhibit 346, Paragraphs 1
22 through 17, was received in
23 evidence.)

24 MR. KNOWLES-KELLETT: Can we take a break?

25 CHIEF JUDGE CHACHKIN: Yes.

1 (Whereupon, a short recess was taken.)

2 CHIEF JUDGE CHACHKIN: Let's go back on the
3 record.

4 MR. KNOWLES-KELLETT: Ms. Ashauer, the Judge will
5 swear you in now.

6 Whereupon,

7 BARBARA ASHAUER
8 having been first duly sworn, was called as a witness
9 herein, and was examined and testified as follows:

10 CHIEF JUDGE CHACHKIN: Please be seated.

11 DIRECT EXAMINATION

12 BY MR. KNOWLES-KELLETT:

13 Q Good morning. Could you please state your name
14 and business address for the record?

15 A Barbara Ashauer and do you want my whole address?

16 Q However mail would reach you?

17 A 15525 Cabrito Road, Van Nuys, 91406. There's also
18 a post office box.

19 CHIEF JUDGE CHACHKIN: Would you try to keep your
20 voice up?

21 THE WITNESS: Oh, I'm sorry.

22 MR. KNOWLES-KELLETT: Your Honor, as a preliminary
23 matter, we're not quite sure how the sequestration order
24 operates with respect to Ms. Ashauer. She's also been named
25 by Mr. Kay as a witness and, you know, if she's going to

1 testify again, and Mr. Kay would obviously need to talk to
2 her, and we don't really know how the sequestration works
3 with respect to our witnesses and Kay's witnesses.

4 MR. KELLER: We have assumed, and maybe I'm
5 wrong -- but, first of all, we've assumed that the
6 sequestration order applies to her at this point. We have
7 not assumed that the sequestration order applies to our
8 witnesses whom we put on our case.

9 CHIEF JUDGE CHACHKIN: I think that's a fair way
10 to approach it.

11 MR. KNOWLES-KELLETT: We are not objecting to
12 that, Your Honor. We're just trying to comply with it.

13 CHIEF JUDGE CHACHKIN: All right, just proceed.

14 BY MR. KNOWLES-KELLETT:

15 Q All right, so, what we're talking about, Ms.
16 Ashauer, have you talked to any of the witnesses who have
17 testified previously in this matter regarding their
18 testimony?

19 A No.

20 Q Okay, until the Bureau's witnesses are finished,
21 you're not allowed to talk to them about other Bureau
22 witnesses about your testimony in this matter. That is
23 primarily Mr. Hessman, who I believe you know? You sat in
24 the witness room with him. Mr. Marc Sobel, who I believe
25 you're familiar with and Mr. Vince Cordaro, who I believe

1 you're familiar with. Is that all correct and clear?

2 A Yes.

3 Q After they've testified, which I believe will be
4 by the end of the day tomorrow, you're free to talk to them,
5 okay? I'm going to ask you some questions. If at any time
6 you don't understand my question or there's something that
7 doesn't make sense in my question, please let me know and
8 I'll try to clarify my question. We don't want verbal
9 confusion, okay?

10 Who is your employer?

11 A James A. Kay, Jr.

12 Q Are you actually employed by Mr. Kay, or one of
13 his corporations?

14 A I'm employed by Mr. Kay and the corporation.

15 Q Okay, so which corporation do you work for?

16 A I work for Buddy Corporation, Southland
17 Communication.

18 Q But, then, do you also work for Lucky's Two-Way
19 Radio?

20 A Yes, I do.

21 Q How long have you worked for Mr. Kay?

22 A Since June of 1991.

23 Q Okay, and what are your duties there?

24 A I'm the office manager.

25 Q What are the duties of the office manager?

1 A To see that all of the office procedures are
2 carried through, for both the corporation and for Lucky's,
3 to supervise the people that work there, take care of the
4 accounts.

5 Q Okay, is it true that this would include all the
6 billing, accounts receivable and customer accounts?

7 MR. SHAINIS: Objection, leading the witness.

8 MR. KNOWLES-KELLETT: Your Honor, this is Mr.
9 Kay's employee.

10 CHIEF JUDGE CHACHKIN: I'll --

11 MR. KNOWLES-KELLETT: I ask that I be able to
12 treat her as adverse?

13 CHIEF JUDGE CHACHKIN: Well, there's no
14 demonstration yet, but I'll permit some leading questions.
15 Go ahead.

16 BY MR. KNOWLES-KELLETT:

17 Q Is it true that this includes all the customer
18 billing accounts?

19 A Yes.

20 Q Okay, now, do you personally handle the customer
21 billing accounts or do you supervise?

22 A I supervise the handling of the accounts. I do
23 handle some of them on occasion.

24 Q Okay, with respect to entering data into Mr. Kay's
25 computer, is that something you handle and/or supervise?

1 A Yes, it is.

2 Q So, his billing records would be something that
3 your staff typed in?

4 A Through the computer, yes.

5 Q How long has that been the case?

6 A I'm not absolutely sure when I first took charge
7 of that. It was a gradual process.

8 Q Okay, were you involved in it from the very
9 beginning?

10 A Not in the billing.

11 Q Okay. What were you involved with to begin with?

12 A Initially, in handling of accounts receivables and
13 collecting accounts receivables and learning entry of new
14 accounts.

15 Q Okay. When did you become office manager?

16 A In title, I really can't tell you. It just was a
17 progressive --

18 Q Okay, would it be the case that it happened over
19 the first couple of years you were there?

20 A Not necessarily the first couple of years.

21 Q Okay, the first three years?

22 A Possibly.

23 Q I'm asking you to turn your attention to Bureau
24 Exhibit 347. And, I'm not going to ask you to review the
25 whole thing. I'll just ask you to, if you could, I'd like

1 you to turn your attention to the one marked Bates stamp
2 003226. There's Part 1 and Part 2, and it's the K&G Auto
3 Parts.

4 A Yes.

5 Q Are you familiar with this type of document?

6 A Yes.

7 Q Okay, could you describe what this type of
8 document is?

9 A This is called a customer file and it contains
10 pertinent information regarding the individual customers.

11 Q Okay, and the data that we were discussing that
12 you entered, much of this data is that data?

13 A Yes, it is.

14 Q When you enter a new account, what data do you
15 enter in?

16 A I would enter in the name, the account number,
17 initially, the name, the contact, the address, ZIP code,
18 telephone number, the number of controls and mobiles, the
19 air bill in type, the billing period, the adjustment, the
20 entire balance on the bill, the start date, accounting tax
21 codes, site codes, billing amount, number of mobiles, the
22 frequency.

23 Q Okay, and when you say I would enter it, it's you
24 and your staff or is it you, particularly?

25 A On new accounts, I generally do it.

1 Q With respect to the frequency in mountain top
2 assignments, who renders those?

3 A The mountain top assignment would be according to
4 the salesperson who was dealing with the customer and
5 determining what areas they needed covered.

6 Q Okay, but is it correct that you would then enter
7 it into the system?

8 A Once it's determined what areas they're going to
9 need, yes.

10 Q Okay, and with respect to frequency, who
11 determines what frequency they'll operate on?

12 A Mr. Kay would determine what frequency they use.

13 Q That information is then relayed to you to enter
14 into the system?

15 A Yes.

16 Q How long has this been going on, do you know, the
17 way this system is operated?

18 A Since I started learning how to do this.

19 Q Okay, so since June, '91? Or --

20 A I didn't start initially in '91 doing that. It
21 was later on that I started actually entering.

22 Q Could you give a best estimate of when you started
23 doing it?

24 A I would say at least six months before I started
25 to learn how to do this.

1 Q You started -- June, '91 was six months before you
2 started to learn how to do this?

3 A No, no, after I started working for Mr. Kay, it
4 was probably about six months before he showed me how to do
5 these new accounts. So, I did them gradually.

6 Q So, that would put it somewhere in 1992, if you
7 started in June, '91?

8 A Roughly.

9 Q Okay, when a customer wants a trunked service for
10 the mountaintop as opposed to a particular frequency for a
11 conventional channel, is it handled any differently, or who
12 assigns the customers to the trunk system?

13 A The salesperson would be the person who would
14 determine what they're going to use, whether it's a trunking
15 system or a conventional system.

16 Q Okay, but are you familiar with the term assigning
17 a customer code?

18 A Yes.

19 Q And, do you assign customer codes for trunk
20 systems?

21 A Yes, I do.

22 Q So, Mr. Kay wouldn't be involved in assigning a
23 customer to a trunk system?

24 A We would not handle assigning the actual code for
25 the trunking system.

1 Q With respect to the trunk systems, do you know
2 what frequencies the trunk systems operate on?

3 A They're in the code book. I don't know them
4 offhand.

5 Q In the code book, is that sometimes referred to as
6 the log book?

7 A Yes.

8 Q It's a loose-leaf notebook that's maintained at
9 the office?

10 A Yes.

11 Q If a salesperson wanted to know what frequency --
12 take, for example, certain radios could only operate on
13 certain frequencies and they wanted to know what frequencies
14 were in the different trunk systems, would they go to this
15 log book or where would they go?

16 A I'm a little confused by your question.

17 Q Okay, if a salesperson needs to know what
18 frequencies, for any reason, that were involved in a
19 particular trunk system, where would they go to find that
20 out?

21 A I'm not quite sure I understand what you mean by
22 their need to know.

23 Q So, it's not clear to you that they would ever
24 need to know what frequencies are involved in a trunk
25 system, is that the problem?

1 A I don't know what you mean by a need to know.

2 Q Is it correct that the salespeople would program
3 their radios to access the transmission?

4 A The technicians would program the radios.

5 Q Okay. The technicians, where would they go to
6 find out what frequencies were in the trunk system?

7 A The information would be on a programming
8 worksheet.

9 Q Okay, is that also called a programming map?

10 A No.

11 Q Is it different from a programming map?

12 A Yes.

13 Q Could you explain the difference between a
14 programming worksheet and a programming map?

15 A It's a little bit technical for me. The
16 programming worksheet is what I work with. That's where
17 we -- if I were doing the trunking system, I would be
18 putting the codes on there. If it were to be a conventional
19 system, Mr. Kay would assign the conventional frequency on
20 there, and then that is given to the technicians for the
21 programming.

22 The map is a technical piece of paper that has
23 information that the programmer would need. I don't
24 understand that map, but that's something they would need.

25 Q How were the programming worksheets updated when

1 new frequencies were added?

2 A How do you mean, updated?

3 Q If a new frequency is added to a trunk, is the
4 programming worksheet in some way updated?

5 A If we were to change it in any way, yes.

6 Q Okay, turning your attention back to the customer
7 print screen, what is meant by the start date?

8 A The start date would be the date that the customer
9 would actually be using the radio.

10 Q That's the date that you would actually commence
11 billing the customer?

12 A That is correct.

13 Q What is meant by the end date?

14 A That would be the date that the account was
15 closed.

16 Q Okay, and would that correspond to a date they
17 stopped using the radios?

18 A Well, at that point, yes.

19 Q Okay, and that's the date billing would cease?

20 A Yes.

21 Q Who entered the end date, when a customer ceases
22 service?

23 A I generally would.

24 Q Are you aware of any instances where you entered
25 the end date, but the customer continues to be a customer,

1 continues to use your services?

2 A I don't understand that question.

3 Q Are you aware of any instances, for any reason,
4 where you put in an end date and the customer would continue
5 to go on using your services?

6 A Not to my knowledge.

7 Q When you delete a customer from the customer
8 records, is that different than entering the end date?

9 MR. SHAINIS: Objection, no foundation.

10 BY MR. KNOWLES-KELLETT:

11 Q Okay, do you delete customers from the records?

12 A What do you mean by delete?

13 Q Do you have an active customer file record, I
14 believe, and customers get removed from that, not in the
15 active customer files?

16 A Yes.

17 Q I think Craig Sobel described it as setting a
18 delete flag. Does that make sense to you?

19 A Yes.

20 Q Okay, do you do that?

21 A Yes.

22 Q Do you ever do that without entering an end date?

23 A It could happen.

24 Q Can you explain the circumstances under which that
25 might happen?

1 A If, for some reason, that we would want to stop
2 billing the customer. We didn't want the system to -- it
3 would stop the system from billing.

4 Q Okay, so you'd do that if you made some special
5 arrangement with the customer that if you stopped billing,
6 they'd get free service for a period of time, is that
7 correct?

8 A That is -- I can't answer that question.

9 Q Okay. Fair enough. I'd like you to turn your
10 attention to the page marked 003312, it's Babco
11 Construction.

12 MR. SHAINIS: What is it again, 03 --

13 MR. KNOWLES-KELLETT: 003312.

14 BY MR. KNOWLES-KELLETT:

15 Q May I draw your attention to the absence of a
16 start date on that page. Do you see that?

17 A Yes, I do.

18 Q Can you explain what it means when there's no
19 start date indicated? Let's take, for instance, there's no
20 start date being indicated?

21 A This is a little different situation and I don't
22 think we discussed this at all.

23 Q Okay, could you describe what this situation is?

24 A This has to do with billing of air time and this
25 is a screen that is used for billing air time.

1 Q Okay, so, can we describe what start date and end
2 date, do they not have relevance to customers who are billed
3 for end air time?

4 A I don't know how to answer this question. We're
5 getting into a whole different situation here, and I don't
6 quite know how to answer this.

7 Q How does this differ from the other station?

8 A Well, purposes of sorting customers by a dealer,
9 we have various companies set up. You notice the account
10 number on this one is a different series of numbers, and it
11 deals with a different company that's called a company only
12 for billing purposes.

13 In order to do air time, we have to set up another
14 screen in the first company, in order for it to pick up all
15 of them, and we don't need all of the information on this
16 particular screen. On the original screen for this company,
17 all the information is there.

18 Q So, you're saying there's another customer file
19 screen for this type of customer?

20 A Yes.

21 Q Okay, is it correct that you've turned to this
22 particular screen to tell the total number of mobiles and
23 the mountain tops they were located at?

24 A I would turn to the original screen for a
25 customer.

1 Q Okay, so this is a second screen that's just
2 provided? Could you explain the purpose of this screen?

3 A Well, this is the screen that's used to do the air
4 time billing. It's all done through one company.

5 Q Okay.

6 A It's difficult to explain it. I don't quite know
7 how to do that, but this screen is just a supplemental
8 screen. It's not the original customer screen.

9 Q Okay. Would it be accurate that this would tell
10 you how many mobiles people would operate?

11 A Yes, yes.

12 Q And, turning to the page before with respect to
13 the BFI's --

14 A I'm sorry, oh, the one --

15 Q The one, BFI's filed because it's in the file
16 before that, is this the same situation?

17 A Yes.

18 Q So, in order to discern that this is an air time
19 billing screen, as opposed to a normal mobile billing
20 screen, you'd look at the absence of a start date and end
21 date, and then average what was zero?

22 A No, I wouldn't look at that.

23 Q Okay, what would you look at? The customer
24 account code?

25 A Well, if you look at the top of the screen, it

1 says Company I?

2 Q Yes.

3 A This particular account number that starts with
4 six is in account, is in Company III. That's where you
5 would find this customer's original screen, customer screen.
6 This is set up in Company I only to provide the computer
7 with information it needs in order to do air time billing.

8 Q So, if this customer were no longer a customer,
9 you'd have to turn to this other screen, is that correct?

10 A No.

11 Q How would you discern that this was no longer a
12 customer?

13 A It really wouldn't be relevant as far as this
14 particular screen is concerned. The other screen would have
15 the closing date on it.

16 Q Okay. How many of these different companies are
17 there?

18 A There are nine.

19 Q Okay. Can you explain why it's divided up into
20 nine different companies?

21 MR. SHAINIS: Objection, relevancy.

22 CHIEF JUDGE CHACHKIN: Overruled.

23 THE WITNESS: It's divided into separate companies
24 in order to handle different dealers. Different dealers --
25 we have dealers that give us new customers, and in order to

1 keep their account separate, I have a separate company for
2 them.

3 BY MR. KNOWLES-KELLETT:

4 Q Okay, then customers that are solely Lucky's
5 customers, would they be in a particular company?

6 A They're all Lucky's customers. It's just the
7 dealer would be in place of a salesperson.

8 Q Okay, the ones where they're just Southland
9 salespeople, would they be in a particular company?

10 A Yes.

11 Q And, which company would that be?

12 A Company I.

13 Q Which series of account members would that be?

14 A The ones that start with 100 on up.

15 Q Okay, but when you say on up, at some point, it
16 gets to be some other company, right?

17 A At this point, we haven't reached that different -
18 -

19 Q Okay, so if you turn your attention back to BFI,
20 for example, it's 6034? Am I reading the wrong thing?

21 A No, 6034 is the account number.

22 Q Okay. So, is the 6000 series particular to a
23 company?

24 A At this point, it designates Company III.

25 Q Okay, but this set up on a Company I, that's not

1 the same thing you're talking about, right?

2 A No.

3 Q How would you tell, looking at a couple of
4 sheets -- let's go back one sheet -- to B&S Pallets. Would
5 that be Company I?

6 A Yes.

7 Q Okay, and is that because that number 500 is less
8 than 1000?

9 A At this point, yes.

10 Q Okay, so up to 1000 would be Company I, and after
11 that would be other companies?

12 A No.

13 (Laughter.)

14 Q Okay. Can you explain how you would discern that
15 it's Company I?

16 A Well, one thing, it has a complete screen.

17 Q Okay.

18 A And, at this point, because the numbers on the
19 account go up to a certain number that I'm aware of, they
20 don't conflict with one another, as far as the other
21 companies are concerned.

22 Q Okay, do you know what the lowest numbers on the
23 other companies would be?

24 A Two thousand, 2001.

25 Q Do you recall data being lost as a result of the

1 Northridge earthquake?

2 A No.

3 Q Did you have any involvement in fixing any data
4 after the Northridge earthquake?

5 A No.

6 Q Do you recall any corrupted files, whose status
7 you changed from the Xenix to the DOS-based system?

8 A I'm not aware of the intricacies of the files.

9 Q Well, you were responsible for repairing any data
10 you switched from the Xenix to the DOS-based system?

11 A Repairing?

12 Q Putting back any data that had been lost?

13 A I don't recall.

14 Q Okay, do you recall converting from the Xenix
15 system to the DOS system for billing purposes?

16 A Yes.

17 Q Do you recall when that was?

18 A I believe it was in May of 1994.

19 Q Okay. Were you able to do billing up until that
20 point on the Xenix system?

21 A As I recall, yes.

22 Q Okay, were you able to print customer print
23 screens from the Xenix system?

24 A I don't recall.

25 Q When you converted from the Xenix to the DOS

1 system, do you recall it being necessary to manually re-
2 enter a large quantity of data?

3 A At the time that we converted it?

4 Q Right.

5 A Yes.

6 Q Okay, what data was that?

7 A The one, part of the data that I remember
8 particularly were the payments being posted to the accounts.
9 And, that we probably could not open accounts.

10 Q For a period of time that it was being developed -
11 -

12 A Yes.

13 Q -- you couldn't open new accounts?

14 A Yes, it wasn't available.

15 Q Okay, when you say payments, was that current
16 payments it was difficult to enter or was that historical
17 payments?

18 A The daily payments that came in at that time, it
19 was not possible to post them.

20 Q Okay, for about how long did this situation last,
21 do you know?

22 A I believe it was ten days or two weeks, something
23 like that.

24 Q Do you recall any other difficulties or any other
25 data that had to be re-entered into the system?

1 A I don't specifically recall what data. I know
2 that there was data that needed to be re-entered. I just
3 don't recall what it was.

4 MR. KNOWLES-KELLETT: No further questions, Your
5 Honor.

6 CHIEF JUDGE CHACHKIN: Cross-examination?

7 MR. SHAINIS: Yes, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. SHAINIS:

10 Q Ms. Ashauer, your knowledge of the computer
11 systems that were used during that period of time that Mr.
12 Kellett was asking you about, I believe was approximately
13 '94, '95, did you fully utilize the computer system in your
14 job, all areas of it?

15 A I had access to it.

16 Q But, did you use it, all areas?

17 A Now, explain what you're referring to as --

18 Q Did you have reason to go into all different
19 aspects of the files that are contained on the computer
20 system?

21 A All files?

22 Q Yes?

23 A No, I wouldn't have need to get into all of them.

24 Q Okay, so if there was a problem with certain data
25 contained on the computer system, if that was not what you

1 were utilizing, you wouldn't know, correct?

2 A That's true.

3 Q Just for the record, could you tell me the date of
4 the Northridge earthquake?

5 A January 17, 1994.

6 Q First of all, could you describe the damage that
7 was done as a result of the earthquake to the business, both
8 Lucky's and Southland?

9 A I could describe some of it.

10 Q Okay.

11 A I'm not aware of all of it.

12 Q What you're aware of?

13 A I was aware of a lot of damage, considerable
14 damage being done to our inventory stockroom, to the tech
15 rooms, to the offices in general. Cubicles falling over,
16 books fell off the shelves. It was a mess. Things were
17 just everywhere, things were broken.

18 Q And, how long did it take before the business was
19 able to be back to full operation?

20 A I couldn't answer that question. Full operation.
21 I could answer fairly well as to my part of it.

22 Q All right, your part of it?

23 A With exceptions due to subsequent power failures
24 because of other after shocks and just having problems
25 getting to things we needed, it was some little time before

1 we were able to feel comfortable in the office, in my
2 office, putting stuff together.

3 Q Would it be a year?

4 A Well, I'd have to say that we were functional
5 before a year. Was it fully functional, I just don't
6 recall.

7 Q The areas of the business such as -- your office
8 is in the same building as the other two businesses,
9 correct?

10 A Yes.

11 Q And, from your observation, would it be fair if I
12 said it took a year for that to be reconstructed as a result
13 of the damage from the earthquake?

14 A That seems reasonable.

15 (Pause.)

16 Q Ms. Ashauer, the computer system, did that
17 automatically generate bills from your standpoint, as
18 opposed to borrowing information from them, customers?

19 MR. SCHAUBLE: Objection, which computer system?

20 BY MR. SHAINIS:

21 Q Let's start with the Xenix system?

22 A I'm sorry, would you clarify the question?

23 Q Yes. The computer program and you were asked
24 questions about these sheets?

25 A Yes.

1 Q Was this utilized for billing purposes or to
2 gather information concerning customers?

3 A This particular screen?

4 Q Yes.

5 A The information in order to bill is necessary to
6 be on that screen.

7 Q All right, but did you use the information for
8 billing or to get information on customers? And, wasn't
9 your function mainly billing?

10 A No. My function?

11 Q Well, your function in use of these screens,
12 wasn't it for billing purposes?

13 A The use of that screen is to set up an account
14 with all the pertinent information, and with the information
15 that's on there, it's used for billing purposes.

16 Q Once the account is set up, does it automatically
17 generate the bills?

18 CHIEF JUDGE CHACHKIN: Which system are you
19 talking about?

20 MR. SHAINIS: The system that was always used.

21 CHIEF JUDGE CHACHKIN: All right.

22 THE WITNESS: It doesn't automatically do them,
23 but there is a procedure to set up for them to do the
24 automated billing.

25 MR. SHAINIS: Just one moment, Your Honor.

1 (Pause.)

2 MR. SHAINIS: No further questions.

3 CHIEF JUDGE CHACHKIN: Well, first of all, I want
4 to say the questions that were just put to the witness
5 relate to the print screens in Bureau Exhibit 347, so this
6 should be clear.

7 MR. SHAINIS: Yes, that is correct, Your Honor.

8 CHIEF JUDGE CHACHKIN: Redirect?

9 REDIRECT EXAMINATION

10 BY MR. KNOWLES-KELLETT:

11 Q Okay, Ms. Ashauer, you said you didn't know, that
12 you wouldn't know about all the files on the computer
13 system, but would you have known if it was necessary to re-
14 enter the customer information on the customer print screen?
15 Would that be within your purview?

16 A You mean, if all the information were missing?

17 Q Or any of it were missing?

18 A Please state your question again.

19 Q Okay, what I'm mostly concerned about is, if you
20 needed to re-enter the mobile and monthly billing amounts
21 from the customer print screen, would that have been your
22 job?

23 A I could have done that, yes.

24 Q Okay, would it have been somebody else's job?

25 A It could have been done by somebody else.

1 Q Who else might have done it?

2 A My assistant, Althea Mendez.

3 Q Would you have been aware of it if Althea were
4 doing it?

5 A She would have done it at my request.

6 Q Okay. How long were you plagued by these power
7 failures in the wake of the earthquake?

8 A It seemed like forever. We had after shocks and
9 power outages for some time after that.

10 Q Like, six weeks, two months?

11 A Oh, probably off and on for, we would have
12 earthquakes much longer than that. I don't recall that we
13 had them strong enough to have outages for that long a
14 period, but we did have frequent power outages because of
15 shocks. Then we'd get it back again.

16 Q Okay, so you're saying that power outages were
17 something less than six weeks, but that earthquakes --

18 A I can't put a time limit on it.

19 Q Is that a ballpark?

20 A It could be.

21 Q Okay, how long was billing interrupted as a result
22 of the earthquake?

23 A Billing would only have been interrupted if we had
24 a power outage.

25 Q Okay, so you're not even aware that it was

1 necessarily interrupted. It was only possibly delayed a
2 matter of days?

3 A It could be.

4 Q Do you recall if Lucky's ceased to provide service
5 to customers after the earthquake, or did they continue to
6 provide?

7 A To provide repeater service?

8 Q Right.

9 A I can't specifically answer that.

10 Q Okay, were you aware of particular failures due to
11 the earthquake?

12 A I'm sure there were some.

13 Q Was it widespread, do you know?

14 A Well, the earthquake was widespread, so --

15 Q I mean, the number of repeaters that were out of
16 service?

17 A I don't recall.

18 MR. KNOWLES-KELLETT: No further questions.

19 CHIEF JUDGE CHACHKIN: Anything further?

20 MR. SHAINIS: No, Your Honor.

21 CHIEF JUDGE CHACHKIN: All right, you're excused,
22 subject to recall.

23 THE WITNESS: Can I just sit here?

24 CHIEF JUDGE CHACHKIN: Well, Kay's counsel can
25 tell you.

1 (Witness excused.)

2 (Whereupon, a short recess was taken.)

3 CHIEF JUDGE CHACHKIN: Back on the record.

4 Whereupon,

5 MARC DAVID SOBEL

6 having been first duly sworn, was called as a witness

7 herein, and was examined and testified as follows:

8 CHIEF JUDGE CHACHKIN: Please be seated. This
9 witness is under subpoena, is that correct?

10 MR. SCHAUBLE: Correct, Your Honor.

11 CHIEF JUDGE CHACHKIN: The witness is represented
12 by counsel?

13 MR. SCHAUBLE: Yes, Your Honor.

14 CHIEF JUDGE CHACHKIN: Would you identify
15 yourself, sir?

16 MR. EISEN: Your Honor, my name is Eric Eisen. I
17 am counsel for Mr. Sobel.

18 CHIEF JUDGE CHACHKIN: All right. Mr. Schauble,
19 are you going to start the examination?

20 MR. SCHAUBLE: Yes, Your Honor.

21 CHIEF JUDGE CHACHKIN: Go ahead.

22 MR. SCHAUBLE: First of all, I would note, Your
23 Honor, that you have in evidence portions of WTB Exhibits
24 328 and 329, which are the testimony of this witness. I do
25 not intend to repeat matters that were done previously in

1 those exhibits.

2 CHIEF JUDGE CHACHKIN: All right.

3 DIRECT EXAMINATION

4 BY MR. SCHAUBLE:

5 Q Sir, please state your name and address for the
6 record?

7 A Marc David Sobel, 11507 Lillywood Court, North
8 Park, California 93021.

9 Q Okay, good morning, Mr. Sobel. The Judge has
10 issued what's called a sequestration order in this
11 proceeding. Have you had discussions with anyone concerning
12 testimony of any of the witnesses who have previously
13 testified at the hearing in the last several weeks in this
14 case?

15 A No.

16 Q Under the sequestration order, you may not discuss
17 your testimony with any of the Bureau's witnesses until
18 after they have testified. The remaining witnesses are
19 Kevin Hessman and Vincent Cordaro. We anticipate that their
20 testimony will be done in the next couple days. Do you
21 understand that?

22 A Yes.

23 Q Okay. Mr. Sobel, are you familiar with the LTR
24 trunking format?

25 A Yes.

1 Q Are any of the 800 MHz stations that are licensed
2 to you part of an LTR trunk group?

3 A In a way, yes.

4 Q Okay. Would you please describe in what way they
5 are part of that group?

6 A Well, they're not directly wired to a system.
7 They operate as if they were.

8 Q Okay. Do you know which stations those are?

9 A Not offhand.

10 Q Would you know at which mountaintops those
11 stations are located?

12 A Hollywood Hills and Santiago Peak.

13 Q Do you know the frequency of the stations in
14 question?

15 A Not offhand.

16 Q Would these be 800 MHz stations?

17 A Yes.

18 Q Now, are there other stations in these LTR trunk
19 groups that are licensed to somebody other than yourself?

20 A Yes.

21 Q And, who is the licensee of those other stations?

22 A James Kay.

23 Q Just so the record is clear, these stations are
24 stations that are licensed to you are the subject of a
25 management agreement between yourself and Mr. Kay?

1 A Yes.

2 Q Let me ask you this, Mr. Sobel. For your stations
3 that are part of the LTR trunk group, do you make any effort
4 to determine what revenues there might be that are
5 attributable to your station?

6 A Yes.

7 Q For the stations that are part of an LTR trunk
8 group, how do you make that determination?

9 A I look it up on a computer database.

10 Q Is it based on the revenue, divided by how many
11 stations there are in the LTR trunk group?

12 A Yes.

13 Q Let me ask you this question. Is there one or
14 more than one LTR trunk group that one of your 800 MHz
15 stations is part of?

16 A Can you clarify that?

17 Q Sure. You testified that you have stations at
18 Hollywood Hills and at Santiago Peak that are part of an 800
19 MHz LTR trunk group, correct?

20 A Yes.

21 Q Okay. Is that one LTR trunk group or two
22 different LTR trunk groups?

23 A Two different groups.

24 Q For the LTR trunk group at Hollywood Hills, do you
25 know how many stations total are part of that group?

1 A Two.

2 Q How many stations are part of the LTR trunk group
3 for the Santiago Peak station?

4 A I believe it's just one.

5 Q Let me ask you, Santiago Peak, is that licensed as
6 a conventional or a trunk station?

7 A Conventional.

8 Q Could you explain for the record how the LTR trunk
9 group operates at Santiago Peak as one conventional station?

10 A How much detail do you want?

11 Q A brief summary.

12 A The map, the LTR map, includes my frequencies.
13 The radios have the ability to choose my channel if my
14 channel is available at the moment.

15 Q Do the radios also have the capability to use
16 other channels?

17 A Yes.

18 Q Do you know the other channels?

19 A Well, this map has 20 channels, but not all of
20 them are functional.

21 Q Is it correct that the other functional channels
22 would be for stations licensed to Mr. Kay?

23 A As far as I know, yes.

24 Q Mr. Sobel, do you recall which 800 MHz licenses
25 from you were obtained through assignment?

1 A No.

2 Q Turn to the book in there labeled Exhibits 291 to
3 328. Turn to Tab 328.

4 (Pause.)

5 BY MR. SCHAUBLE:

6 Q Specifically, Mr. Sobel, to the page marked 100,
7 line 24, going to 101, line 12.

8 MR. KELLER: I'm sorry, say again?

9 MR. SCHAUBLE: One hundred, Line 24 to 101, line
10 12.

11 MR. KELLER: You're making references, we're
12 making references, to the original transcript numbers?

13 MR. SCHAUBLE: Yes.

14 MR. KELLER: Okay.

15 MR. SCHAUBLE: Your Honor, can we go off the
16 record?

17 CHIEF JUDGE CHACHKIN: Yes.

18 (Discussion held off the record.)

19 MR. KELLER: I thought that was strictly --

20 MR. EISEN: I think there's some confusion here.
21 Can we go back off the record?

22 CHIEF JUDGE CHACHKIN: Off the record.

23 (Discussion held off the record.)

24 CHIEF JUDGE CHACHKIN: Back on the record.

25 BY MR. SCHAUBLE:

1 Q Mr. Sobel, have you had an opportunity to review
2 the material?

3 A Yes.

4 Q Does that refresh your recollection in ways to
5 which licenses could be obtained through assignment?

6 A Not really.

7 Q Okay. Do you have any reason to believe that the
8 information in here is incorrect?

9 A No.

10 (Pause.)

11 MR. SCHAUBLE: Your Honor, at this time, I'd like
12 to renew my motion to admit to the record, pages 100, line
13 24 to 101, line 12. I think for the purposes of a complete
14 record, we should have the records of which authorizations
15 Mr. Sobel obtained through assignment.

16 I've asked the witness, and he doesn't have any
17 independent recollection, but I think this is an accurate
18 record of --

19 CHIEF JUDGE CHACHKIN: Stipulate to it -- there's
20 no stipulation.

21 MR. KELLER: Your Honor, I have no objection if he
22 wants to refer to it. I just didn't want to restipulate,
23 you know, for purposes of this proceeding. The Bureau
24 should have, the Bureau might wish to produce information
25 which would be within its control and knowledge as to